not receive such reports and payments or price schedules within the time specified, he shall have the power to revoke the license of the person in default, such revocation becoming effective upon the mailing by the commissioner by registered or certified mail of notice of revocation to the person in default. Notices required to be mailed to any person shall be mailed to him at his usual postoffice address, or in the case of a nonresident person, either to him at his usual post-office address or to his resident agent for service of process at the post-office address of the resident agent designated in the appointment of such resident agent. Any person whose license has been refused or revoked shall not thereafter engage in the business for which the license was applied for or issued until such time as the provisions of this act have been complied with and a license issued by the commissioner.

(b) Notwithstanding any other remedies provided hereunder, the commissioner may revoke any license issued hereunder for violation of any of the provisions of this act. Provided, however, that before the commissioner shall revoke any license for any violation of any provision of this act, except as provided in paragraph (a) of this section, he shall hold a hearing on at least ten (10) days' notice, at which time, the licensee shall have the right to appear in person or by counsel and introduce evidence to be heard on the matter under consideration. The commissioner shall direct to such licensee by registered of certified mail, sent to his last known address, a notice of hearing and a statement of the matters to be considered. Direction of such notice by registered or certified mail as herein provided shall be sufficient notice of hearing notwithstanding any refusal of the addressee to accept or to receive said notice.

The commissioner shall cause a stenographic record to be made of the hearing as herein provided and shall make a written finding of fact, based on the information ob-

tained at such hearing and may, if the record contains adequate evidence of violation, revoke the license issued hereunder. Any person whose license has been revoked for violation of one of the provisions of this statute may appeal to the Chancery Court of the First Judicial District of Hinds County, Mississippi and the court shall hear and determine on the case as an appellate court and shall affirm or reverse the revocation. Appeals from the decree of said chancery court shall be allowed to the commissioner and other parties as in other cases.

§ 4560-116. Penalty for operating without license.

Any person required by this act to obtain a license from the commissioner before engaging in any business referred to in this act who shall engage in such business without having first obtained such license, or shall engage in such business after such license shall have expired or shall have been revoked by the commissioner shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500.00). Each day's violation shall constitute a separate offense.

§ 4560-117. Resident agent appointment.

Any nonresident person applying to the commissioner for a license to engage in the business of processing, distributing, manufacturing or selling perishable fresh milk products in this state shall file in the office of the Secretary of State of Mississippi a written power of attorney designating the secretary of state as the agent of such nonresident person upon whom service of process may be had in the event of any suit against said nonresident person, and such power of attorney shall be so prepared and in such form as to render effective the jurisdiction of the courts of Mississippi over such nonresident person and make such person amenable to the jurisdiction of the courts of this

state; provided, however, that any such nonresident who has designated or shall hereafter designate a resident agent in Mississippi upon whom process may be served as provided by law generally, or limited to service of process arising under this act shall not be required so to designate the secretary of state as such agent. The secretary of state shall be allowed such fees therefor as provided by law for filing designations of resident agents. The commissioner shall be furnished with a copy of the designation of the secretary of state or other person or corporation as agent for service of process, such copy to be duly certified by the secretary of state. No license shall be issued by the commissioner to any nonresident person who has not so designated the secretary of state or some other agent as resident agent for the service of process and had a certified copy of such designation filed in the office of the commissioner.

§ 4560-118. Procedure in event of violation.

(a) Any person injured or damaged by any violation of this act or who would suffer injury or damage from any threatened violation of this act may complain to the commissioner of such violation or threatened violation hereof by one or more persons. The commissioner shall forthwith investigate such complaint to determine whether there has been or is at the time of the investigation a violation or threatened violation of this act. The commissioner may, also, on his own initiative without having received a complaint make investigations to determine whether there has been, or is at the time of the investigation, a violation or threatened violation of this act by one or more persons.

(b) When the commissioner has determined after investigation that there has been or is a violation or threatened violation of this act, he shall give the defendant opportunity to sign an agreement to pay the costs of investiga-

tion not to exceed five hundred dollars ($500.00) and to cease and desist from such violation or threatened violation. If the defendant signs such agreement, the commissioner shall take no further action so long as the defendant conforms to said agreement and continues to cease and desist from any violation or threatened violation of the act and pays the costs of investigation as agreed.

(c) If the defendant shall fail or refuse to execute a written agreement, as aforesaid, to cease and desist from any violation or threatened violation of this act or in event defendant has executed such written agreement and it shall appear to the commissioner that the defendant fails to cease and desist from violation or threatened violation of this act, or in event the commissioner has determined that defendant has been in violation or threatened violation of the act and had terminated such violation or threatened violation after the complaint was made or investigation was begun but has resumed violation or threatened violation of this act, the commissioner shall forthwith certify the record of his investigation, and the bill of costs taxed against the defendant to the Attorney General of the State of Mississippi and the attorney general shall institute in the name of the State of Mississippi an injunction suit in any county in which the alleged violation was committed or is threatened to be committed or in which the defendant resides or has his principal place of business, in order to restrain the defendant from any violation or threatened violation of this act. The commissioner of agriculture is hereby authorized and empowered, with the advice and consent of the attorney general, to employ any licensed attorney of the State of Mississippi as a special assistant attorney general to prosecute any injunction suit, and the compensation of such attorney so employed shall be fixed by the attorney general and, when certified by him to the commissioner as having been earned, shall be paid by the commissioner.

(d) Any person damaged by any violation of this act or any threatened violation of this act may intervene in the injunction suit as a complainant and may propound in such suit any claim for any damages which he may have sustained by virtue of any violation or threatened violation of this act by the defendant. If in such action a violation or threatened violation of this act shall be established, the could shall enjoin or restrain and otherwise prohibit such violation or threatened violation, shall tax against the defendant the cost of suit and the costs of the investigation by the commissioner and when the attorney general has employed an assistant attorney general for the purpose of bringing suit, the court shall determine the amount of a reasonable attorney's fee to be recovered by the State of Mississippi, and shall also tax same against the defendant. When the costs of investigation of an attorney's fee shall be recovered in such suit and shall be paid, the amounts so paid shall be covered into the state treasury and become a part of the Milk Products Sales Act Account created by this act. If in such action, any person intervening as complainant shall recover damages because of a violation or threatened violation of this act, such person shall be entitled to recover from the defendant damages triple in amount of any actual damages found by the court to have been sustained as a result of the defendant's violation or threatened violation of this act.

§ 4560-119. Injunction an additional remedy.

The rights and remedies herein provided are in addition to those otherwise provided by law. Any person damaged by a violation or a threatened violation of this act may sue for an injunction, for damages or for other relief without first having made a complaint to the commissioner. Any person may be enjoined by a court of competent jurisdiction from the violation or threatened violation of any of the provisions of this act. Any person found by any court in

any action to be in violation or threatened violation of any of the provisions of this act shall be liable for triple the actual damages, if any found by the court to have been sustained by any plaintiff or complainant as a result of such violation or threatened violation, and recovery shall be awarded accordingly.

§ 4560-120. Application of provisions.

Notwithstanding the provisions of sections 1090, 4486, and 4519, Mississippi Code of 1942, this act shall apply to all persons as defined in section 3 (a) [§ 4560-103] hereof.

§ 4560-121. Exceptions.

The provisions of this act shall not apply in the following cases:

(1) In the closing out of a manufacturer's or distributor's stock, fixtures, and equipment for the purpose of discontinuing business as a manufacturer or distributor.

(2) When the perishable fresh milk products or fixtures and equipment are being sold by an officer acting under the orders of any court.

§ 4560-122. Severability of provisions.

Should any part of this act be adjudged invalid or unconstitutional, such adjudication shall affect only the part of this act specifically covered thereby and shall not affect any other provisions or parts of this act.

§ 4560-123. Unfair Milk Sales Act repealed.

Chapter 134, laws of 1956, and chapter 137, laws of 1958,* the same being the Unfair Milk Sales Act [§§ 4560-52–

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* Editor's Note—

Chapter 137, Laws of 1958, amended former §§ 4560-52, 4560-56, 4560-59, 4560-60. Provisions as to licenses and fees are set forth in former § 4560-59, the text of which is retained in this Supplement, supra.

4560-62], as amended, are hereby repealed but this repeal shall not affect or defeat any assessment, claim, suit, appeal, right, or cause of action due or begun thereunder prior to the effective date of this act or shall thereafter be begun and the law hereby repealed is expressly continued in full force, effect and operation for the purpose of enforcing any obligations arising under such law prior to the effective date of this act. The commissioner shall not issue any license as provided by this act to any person licensed under said chapter 137, laws of 1958, until such person has filed all reports and paid all fees required by said chapter 137, laws of 1958. All fees collected by the commissioner under the provisions of chapter 137, laws of 1958, and remaining in the "Dairy Industry Unfair Trade Practices Account" created by said chapter 137, laws of 1958, on the effective date of this act shall be transferred by the commissioner to the "Milk Product Sales Act Account" created herein. All fees collected by the commisisoner from licensees under the said chapter 137, laws of 1958, after the effective date of this act shall be deposited by him in the said "Milk Products Sales Act Account." The commissioner shall then pay from the "Milk Products Sales Act Account" any and all obligations which accrued under provisions of said chapter 137, laws of 1958.

§ 4560-124. Effective date.

This act shall take effect and be in force from and after its passage (approved May 11, 1960).

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